IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 21965 of 2007(M)

PETITIONER:

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1. SMT. LEHARA P.S.,
   D/O. LATE SRI.P.S. SOMASUNDARAM, RESIDING AT
   PERIYATHRA HOUSE, KANIMANGALAM P.O.,TRICHUR-27.

2. SMT. HRIDIA P.S.,
   D/O. LATE SRI.P.S. SOMASUNDARAM, RESIDING AT
   KARAMOD HOUSE, T.C.1/359, SNHS ROAD,KANIMANGALAM,
   TRICHUR-27.

BY ADV. SRI.E.P.GOVINDAN

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
   FORTH CIRCLE, TRICHUR.

2. SPECIAL DY. TAHSILDAR (R.R), TRICHUR.

3. STATE OF KERALA,
   REPRESENTED BY SECRETARY, TAXES DEPARTMENT,
   GOVERNMENT SECRETARIAT, TRIVANDRUM.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.21965 of 2007

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Dated this the 17th day of July, 2007.

JUDGMENT

The petitioners are legal heirs of the deceased dealer who suffered exparte sales tax assessment for 2000-2001. According to the petitioners, assessments are completed after death of the deceased and no notice was issued to legal heirs. Further, petitioners' contention is that the unit was enjoying sales tax exemption as a khadi unit. Since the assessee is no more, I feel legal heirs should be given an opportunity to produce documents to substantiate their case. The W.P. is accordingly disposed of directing the first respondent to verify the books of accounts and other records and certificate of exemption if produced by the petitioners along with copy of this judgment within ten days from date of receipt of copy of this judgment and make fresh assessment after issuing fresh pre-assessment notice to petitioners. As and when fresh orders are issued, first respondents will cancel Exts.P4 and P5 in rectification proceedings. There will be direction to the second respondent to withhold recovery proceedings for three months from now and thereafter recovery will be based on fresh orders to be issued

by first respondent as above. In any case recovery should be limited to assets left by the deceased and no personal recovery should be initiated against legal heirs.

C.N.RAMACHANDRAN NAIR
Judge

pms